

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

JOHN DOE, individually and on behalf of all others similarly situated,

Plaintiff,

v.

VANDERBILT UNIVERSITY,

Defendant.

No. 3:20-cv-00356

Judge William L. Campbell, Jr.

Magistrate Judge Jeffrey S. Frensley

PLAINTIFF'S THIRD NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff, John Doe, by and through his attorneys, and as his Third Notice of Supplemental Authority, hereby states the following:

In Plaintiff's Opposition to Motion to Dismiss, Plaintiff noted that "four cases analyzing nearly identical claims against educational institutions in the wake of COVID-19 have each denied motions to dismiss claims for unjust enrichment and breach of contract to provide live, in-person instruction and access to campus facilities." ECF No. 42 at 2 (collecting cases). Since the submission of Plaintiff's opposition on September 11, 2020, Plaintiff's First Notice of Supplemental Authority filed on November 6, 2020 (ECF No. 52), Plaintiff's Second Notice of Supplemental Authority filed on December 21, 2020 (ECF No. 61), and Plaintiffs' response to Defendant's Notice of Supplemental Authority filed on December 18, 2020 (ECF No. 59), Plaintiff has identified additional recent, persuasive decisions. Such additional decisions include the following, which Plaintiff submits as additional support for an order denying Defendant's motion to dismiss:

1. *Bergeron v. Rochester Inst. of Tech.*, 20-CV-6283 (CJS), 2020 WL 7486682 (W.D.N.Y. Dec. 18, 2020) (Exhibit 1) (denying motion to dismiss);

2. *Doe v. Bradley Univ.*, No. 1:20-cv-01264-MMH-JEH, 2020 U.S. Dist. LEXIS 240698, (C.D. Ill. Dec. 22, 2020) (Exhibit 2) (denying motion to dismiss);
3. *Bahrani v. Northeastern University*, No. CV 20-10946-RGS, 2020 WL 7774292 (D. Mass. Dec. 30, 2020) (Exhibit 3) (denying, in part, motion to dismiss);
4. *Hiatt v. Brigham Young University*, No. 1:20-CV-00100-TS, 2021 WL 66298 (D. Utah Jan. 7, 2021) (Exhibit 4) (denying defendant's motion to dismiss for failure to state a claim);
5. *In Re: Boston University Covid-19 Refund Litigation*, No. CV 20-10827-RGS, 2021 WL 66443 (D. Mass. Jan. 7, 2021) (Exhibit 5) (denying defendant's motion to dismiss);
6. *McCarthy v. Loyola Marymount University*, No. 2:20-CV-04668-SB (C.D. Cal. Jan. 8, 2021) (ECF No. 43) (Exhibit 6) (denying defendant's motion to dismiss); and
7. *Rhodes v. Embry-Riddle Aeronautical University, Inc.*, No. 6:20-cv-00927-PGB-EJK (M.D. Fla. Jan. 14, 2021) (Exhibit 7) (denying defendant's motion to dismiss).

Plaintiff respectfully suggests that these decisions, involving student claims for tuition and/or fee refunds following COVID-19-related campus closures, further support their opposition to Defendant's motion to dismiss.

Dated: January 14, 2021

Respectfully submitted,

By: /s/ Daniel J. Kurowski

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the *Plaintiff's Third Notice of Supplemental Authority* was filed electronically on January 14, 2021, a copy of which will be served upon all counsel of record as listed below by the Court's CM/ECF system.

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